RULES AND ORDERS UNDER ACT XXI OF 1881.

(BROACH AND KAIRA INCUMBERED ESTATES.)

DECLARING THE MÁLIKS OF THÁSRA IN THE KAIRA DISTRICT TO BE THÁKURS.

Notn. No. 5295, Revenue, dated 16th July 1883, B. G. G., 1883, Pt. I, p. 504.

In exercise of the power conferred by Section 3 of the Broach and Kaira Incumbered Estates Act, 1881, the Governor in Council is pleased, with the previous sanction of the Governor General in Council, to declare that the Máliks of Thásra in the District of Kaira are Thákurs for the purposes of the said Act.

RULES UNDER SECTION 31 OF THE ACT.

(1) *Revenue Notn., dated 13th August 1877, B. G. G., 1877, Pt. I, p. 731.*

In exercise of the power conferred by Section 31 of Act XIV of 1877, the Governor in Council is pleased to frame the following rules, *viz.*:—

1. All subordinate officers entrusted under the said Act with the collection, receipt, or custody of moneys, or of any valuable property, shall furnish security to the extent of three years' salary.

2. The order of management and the notices required to be issued under Sections 7, 12 and 26 of the Act shall be respectively in the Forms A, B and C, appended to these rules.

3. The Tálukdári Settlement Officer, or other Manager, appointed under the Act, shall make the inquiry prescribed by Section 12, and prepare the Schedule of debts and liabilities and the liquidation scheme, required by Section 17 in accordance with the following rules.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum, or the aggregate of these sums, with 9 per cent. per annum simple interest on the amount of each debt, from the time when each debt was incurred up to the date on which the order of management was published, shall be the amount to be awarded, but subject to the following conditions, (namely):—

(1)—that the amount of interest shall in no case exceed that of the principal;

(2)—that the heir in the second generation of the person who originally incurred the debt shall pay the principal only and no interest;

(3)—that the amount to be assigned in settlement of bonds held for services rendered by the creditor shall be determined by the Manager after hearing evidence as to the nature and extent of the service in question;

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(1) This Notification, issued under Act XIV of 1877, is kept in force by Act XXI of 1881, Section 2.

(4)—that no interest shall be allowed on debts, accounts relating to which are not produced to the satisfaction of the Manager;

(5)—that when the amount of the original principal is not satisfactorily proved, a deduction of 50 per cent. shall be made from the amount of the debt as it stood at the first stage at which satisfactory proof of the existence of the debt is given;

(6)—that when no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed;

(7)—that interest shall not be allowed on account-debts in the absence of any writing showing that interest on such debts should be allowed;

[ ] (7*a*)—A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided clause 1 of this rule be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed. [a]

(8)—that all payments made by the Thákur to any creditor, and all profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the date of the order of management, shall be deducted from the principal sum of the said debt or liability, and interest on the amount so deducted shall be dissallowed from the time of such payment or enjoyment, and the Manager shall determine the amount of profits realized under such enjoyment after examining such proofs as may be produced before him;

(9)—that if the principal of all the debts due by any Thákur with simple interest at 9 per cent. shall exceed the amount which it is estimated will be available for the settlement of the creditors' claims, subject to the provisions of Section 11 of the Act, during a period of twenty years, no interest shall be allowed on such debts as were not incurred by the present Thákur; and that if after disallowing interest on such debts the amount necessary to liquidate the whole of the debts be still in excess of the amount estimated to be available for their liquidation, the rate of interest to be awarded on the remaining debts shall be decreased until the aggregate amount of capital and interest payable falls within the requisite limit.

5. Whenever a bond or decree or other claim has been transferred by sale, gift or otherwise from the original holder to any other person, the present holder thereof must support his claim by the same proofs as if he were the original holder.

[a—a] This clause was inserted by Government Notification No. 4113, Revenue, dated 14th August 1878, *B. G. G.*, 1878, Pt. I, p. 502. This alteration in the above rules was made to take effect in respect only of those estates for which a liquidation scheme had not been already sanctioned (*vide* paragraph 1 of Notification No. 4113 of 1878).

[a] 6. All admitted debts shall be satisfied proportionately in the following order:—

1*st*.—Money lent on the security of the estate.

2*nd*.—Decreed and bonded debts.

3*rd*.—Accounts debts. [a]

7. In deciding what claims are admissible, and to what amount they shall be admitted, the Manager may appoint a Committee of experienced natives—consisting of three persons, of whom one only shall be in the service of Government—to assist him, and may re-imburse the said Committee their necessary expenses out of percentage of the rents and profits which he may receive to be reserved by him to cover these and similar charges connected with the discharge of his duties.

8. If the creditors of any debtor themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties assent to the said schedule in presence of the Manager, the Manager may accept such schedule without further investigation, and make it the basis of the liquidation scheme.

[b] 9. If the creditors agree to accept a sum of money from the Manager in immediate satisfaction of all their claims against the debtor, and the Manager shall determine to borrow money from Government for the purpose of making such payment, the Manager shall, on receipt of the orders of Government sanctioning such loan, order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally pass receipts in full for all their claims, and that if any fraud is subsequently discovered to have been committed by any creditor in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the Manager for satisfaction under the Act. The interest chargeable on such loan shall be at the rate of 5 per cent. per annum, or at such rate as may be specially fixed by the Manager, with the sanction of Government, and shall be repayable together with the amount of the loan as provided in Section 11 of the Act. [b]

[c] 10. In estimating the amount of cash to be paid under the last rule in immediate satisfaction of admitted claims the following points are to be considered, (namely):—

(*a*) The income of the debtor, the amount of the debt and the probability or improbability that the creditor would have been able to recover his debt if the Act had not been passed.

(*b*) The nature of the particular debt.

(*c*) The period for which the debt had been outstanding.

(*d*) The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest respectively at the present time. [c]

[a—a] This rule was substituted for the original rule 6 by Government Notification No. 4113, Revenue, dated 14th August 1878, *B. G. G.*, 1878, Pt. I., p. 502:—This alteration in the above rules was made to take effect in respect only of those estates for which a liquidation scheme had not been already sanctioned. *Vide* paragraph 1 of Notification No. 4113 of 1878.

[b—b] This amended rule was made in supersession of Rule 9, by Government Notification No. 2274, Revenue, dated 6th April 1882, *B. G. G.*, 1882, Pt. I, p. 280.

[c—c] This rule was substituted for Rule 10 by Government Notification No. 2485, Revenue, dated 29th May 1879, *B. G. G.*, 1879, Pt. I, p. 528.

11. If at any time the condition of a Thákur's estate shall be found sufficiently prosperous, the Commissioner may make such further awards beyond what is permitted by the previous rules, as the circumstances shall seem to him to warrant.

[a] 12. The fact of his having sanctioned a liquidation-scheme shall be notified by the Commissioner under Section 20 of the Act, by a written notice in English and Gujaráti, which shall be published in the *Bombay Government Gazette*, and of which one copy shall be affixed in the Court of the Subordinate Judge within whose jurisdiction the debtor resides, or the bulk of this estate is situated, and one copy in the Court of the District Judge to whom such Judge is subordinate.[a]

APPENDIX A.

Order of management to be issued under Section 7.

WHEREAS (here enter the name and description of the applicant in full, and when he is not himself the Thákur, state whether he is the sole heir, or one of the heirs of the Thákur) has made an application to me under Section 4 of the Broach and Kaira Incumbered Estates Act, 1877, requesting that the provisions of the said Act be applied to his case (or to the case of);

And whereas upon inquiry it appears to me expedient that the provisions of the said Act should be so applied;

I do hereby direct that the immoveable property of the said shall be managed and his debts liquidated in the manner provided in the said Act by the Tálukdári Settlement Officer (or by).

Dated this day of 18.

(Signed)

Revenue Commissioner, N. D.

APPENDIX B.

Notice under Section 12.

No. *Station and date.*

WITH reference to the order of the Revenue Commissioner, N. D. published at page of the *Bombay Government Gazette* of the of 18, directing that the immoveable property of be managed and his debts liquidated by me under the provisions of Act XIV of 1877, I hereby give notice and require, under Section 12 of the said Act, that all persons having claims against the said or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

[a–a] This rule was added by Government Notification No. 934, Revenue, dated 21st February 1879, *B. G. G.*, 1879, Pt. I, p. 124.